



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0160; FRL-10867-01-R9]

Air Plan Revisions; California; Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove, under the Clean Air Act (CAA or “Act”), a revision to the California state implementation plan (SIP). This revision addresses reasonably available control technology (RACT) requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or “standards”) in the portion of the Sacramento Metropolitan nonattainment area that is subject to the jurisdiction of the Yolo-Solano Air Quality Management District (YSAQMD). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2018-0160 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional

submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Eugene Chen, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4304 or by email at chen.eugene@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. The State’s Submittal

- A. *What document did the State submit?*

Table 1 lists the document addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Document

Local Agency	Document	Adopted	Submitted
YSAQMD	Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Analysis for the 2008 Federal Ozone Standard (“2017 RACT SIP”)	09/13/2017	11/13/2017

The EPA determined that the negative declarations portion of the 2017 RACT SIP met the SIP submittal completeness criteria in 40 CFR part 51, Appendix V on April 11, 2018.¹ The EPA determined that the remaining elements of the 2017 RACT SIP met the completeness criteria on August 23, 2018.²

B. Are there other versions of this document?

There are no other versions of this document, but we previously took final action to approve the negative declarations from the 2017 RACT SIP.³ The remaining elements of the 2017 RACT SIP are the subject of this action.

C. What is the purpose of the submitted document?

Emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC and NO_x emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO_x. The YSAQMD is subject to this requirement as it regulates the Yolo County and

¹ Letter dated April 11, 2018, from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Richard Corey, Executive Officer, CARB.

² Letter dated August 23, 2018, from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Richard Corey, Executive Officer, CARB.

³ 83 FR 31017 (April 5, 2018). This action also approved four additional negative declarations submitted by the YSAQMD on February 22, 2018.

Solano County portions of the Sacramento Metropolitan ozone nonattainment area that is classified as a Severe nonattainment area for the 2008 8-hour ozone NAAQS.⁴ Therefore, the YSAQMD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO_x within the portion of the ozone nonattainment area that it regulates. Any stationary source that emits or has the potential to emit at least 25 tons per year (tpy) of VOCs or NO_x is a major stationary source in a Severe ozone nonattainment area.⁵

Section III.D of the preamble to the EPA's final rule to implement the 2008 ozone NAAQS discusses RACT requirements.⁶ It states, in part, that RACT SIPs must contain adopted RACT regulations, certifications (where appropriate) that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG.⁷ It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS.⁸ The 2017 RACT SIP submittal and negative declarations provide the YSAQMD's analyses of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS.

The EPA's technical support document (TSD) for this action has more information about the 2017 RACT SIP and the EPA's evaluations thereof.⁹ For more information about the YSAQMD's negative declarations, please consult our April 5, 2018 final action approving these negative declarations.¹⁰

II. The EPA's Evaluation and Action

A. *How is the EPA evaluating the submitted document?*

Generally, SIP rules must require RACT for all sources covered by a CTG document as

⁴ 77 FR 30088 (May 21, 2012).

⁵ CAA sections 182(d) and (f) and 302(j).

⁶ 80 FR 12264 (March 6, 2015).

⁷ Id. at 12278.

⁸ Id.; 70 FR 71612, 71652 (November 29, 2005).

⁹ See Docket Item B-01

¹⁰ 83 FR 31017.

well as each major source of VOCs or NO_x in ozone nonattainment areas classified as Moderate or above.¹¹ The YSAQMD regulates the Yolo County and Solano County portions of the Sacramento Metropolitan ozone nonattainment area, which is classified as Severe for the 2008 ozone standard (40 CFR 81.305). Therefore, YSAQMD rules must implement RACT.

States should also submit for SIP approval negative declarations for those CTGs for which they have no sources covered by the CTG, regardless of whether such negative declarations were made in a SIP submittal for an earlier ozone standard.¹² To do so, the submittal should provide reasonable assurances that no sources that fall under the CTG currently exist in the regulated area.

Accordingly, the District's analysis must demonstrate that each major source of VOCs or NO_x in the ozone nonattainment area is covered by a RACT-level rule. In addition, for each CTG, the District must either demonstrate that a RACT-level rule is in place or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_x Supplement), 57 FR 55620, November 25, 1992.
3. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (revised January 11, 1990) ("Bluebook").
4. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 ("Little Bluebook").

¹¹ CAA section 182(b)(2), (f).

¹² 57 FR 13498, 13512 (April 16, 1992).

5. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: “RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers.”
 6. “Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2,” 70 FR 71612 (November 29, 2005).
 7. “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,” 80 FR 12264 (March 6, 2015).
 8. “State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM [startup, shutdown, malfunction] Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction” (80 FR 33839) June 12, 2015 (“2015 SSM SIP Action”).
 9. “Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans,” EPA, October 9, 2020.
 10. “Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy,” EPA, September 30, 2021.
- B. *Does the document meet the evaluation criteria?*

The 2017 RACT SIP concludes that the YSAQMD has satisfied CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS, based on an analysis of SIP-approved requirements that apply to sources covered by a CTG, and major non-CTG stationary sources of VOC or NO_x emissions.

With respect to CTG sources, the 2017 RACT SIP identifies several CTGs with covered sources (i.e. sources covered by the CTG and operating within the nonattainment area), and provides an evaluation of the rules that the District relies upon to meet RACT for these CTGs. We reviewed the District’s evaluation and agree that its rules implement RACT for the

applicable CTGs. Our TSD has additional information about our evaluation of these rules.

Table 3 of the 2017 RACT SIP lists the YSAQMD's negative declarations where there are no sources in the District subject to the applicable CTGs for the 2008 8-hour ozone NAAQS. We previously approved the District's negative declarations on April 5, 2018,¹³ and while they are not the subject of this action, we have summarized these negative declarations with the remaining RACT elements for the 2008 ozone NAAQS in Table 2 below.

With respect to non-CTG major sources of NO_x or VOC, YSAQMD identified nine facilities exceeding the major source threshold for NO_x or VOC, which is 25 tpy in Severe ozone nonattainment areas. As described in more detail in our TSD, we conclude that YSAQMD properly identified all major non-CTG sources of NO_x or VOC requiring RACT. YSAQMD also identified several district rules, including several NO_x rules, that it relies upon to implement RACT at these major sources. As discussed in more detail in Section II.C below, we have noted deficiencies in two of the identified district rules, and conclude that these district rules do not fully satisfy the RACT requirement.

C. What are the deficiencies?

YSAQMD has identified Rule 2.38 (Standards for Municipal Solid Waste Landfills) as implementing RACT for several municipal solid waste landfills in the District that are non-CTG major sources of VOC. Although Rule 2.38 is in effect locally, it has not been submitted for approval into the SIP. Because Rule 2.38 is not federally enforceable through the SIP, it cannot be used to satisfy RACT requirements.¹⁴ This deficiency represents the basis for our partial disapproval of the 2017 RACT SIP for the non-CTG major source VOC RACT element. The District may remedy this deficiency by submitting an approvable rule that implements RACT for municipal solid waste landfills that are non-CTG major sources. See Section 6.1 of the TSD for more information.

¹³ 83 FR 31017.

¹⁴ See CAA section 110(a)(2)(A) (requiring SIPs to include enforceable emission limitations and other control measures, means, or techniques as necessary to meet CAA requirements).

Rule 2.43 (Biomass Boilers), which is relied upon to implement RACT for the non-CTG major source NO_x element, is inconsistent with the EPA's SSM Policy because it exempts affected units from complying with rule standards during periods of startup and shutdown and does not provide any alternative emissions limitation during such periods. The EPA's SSM policy, as defined in the 2015 SSM SIP Action,¹⁵ explains that an emission limitation or requirement that exempts periods of source operation, such as startup, cannot be considered "continuous" and is therefore inconsistent with the definition of "emission limitation" at CAA section 302(k). Under this definition, an emission limitation must limit "the quantity, rate, or concentration of emissions of air pollution on a continuous basis" (absent an alternative emission limitation that applies during such periods). Since Rule 2.43 includes an exemption to emission standards during periods of startup and shutdown, it does not apply on a continuous basis; thus, it does not implement RACT during all operating conditions, regardless of the level of stringency that the Rule 2.43 standards establish outside of exempt periods. This deficiency represents the basis for our partial disapproval of the 2017 RACT SIP for the non-CTG major source NO_x RACT element. The District may remedy this deficiency by establishing a continuous emission limit that applies at all times, including during startup and shutdown. See Section 6.2 of the TSD for more information.

D. Proposed action and public comment

For the reasons discussed above and explained in more detail in our TSD, the EPA proposes to partially approve and partially disapprove the 2017 RACT SIP. As authorized in section 110(k)(3) of the Act, we are proposing to approve the 2017 RACT SIP for each of the CTGs addressed by a District rule. Also under section 110(k)(3), we propose to disapprove the 2017 RACT SIP as it pertains to the non-CTG major source NO_x and VOC RACT elements, based upon our conclusion that two of the District rules relied upon to implement RACT for these elements contain deficiencies that preclude them from implementing RACT. Table 2 lists

¹⁵ 80 FR 33839 (June 12, 2015).

each RACT element, the District rule or negative declaration relied upon to address RACT, and our proposed action for that RACT element.

The EPA is committed to working with YSAQMD to resolve the identified RACT deficiencies. However, should we finalize the proposed partial disapproval of the non-CTG major source NO_x and VOC RACT elements of the 2017 RACT SIP, CAA section 110(c) would require the EPA to promulgate a federal implementation plan (FIP) within 24 months unless we approve subsequent SIP revisions that correct the deficiencies identified in our final action. In this instance, we note that the EPA already has an existing obligation to promulgate a FIP for any RACT SIP elements that we have not taken final action to approve. This FIP obligation originates from our February 3, 2017 finding that YSAQMD failed to submit a RACT SIP for the 2008 8-hour ozone NAAQS by the required submittal deadline.¹⁶ This finding of failure to submit established a FIP obligation deadline of February 3, 2019.

In addition, final action on the proposed partial disapproval would trigger the offset sanction in CAA section 179(b)(2) 18 months after the effective date of a final disapproval, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the deficiencies identified in our final action before the applicable deadline.¹⁷

We will accept comments from the public on this proposed partial approval and partial disapproval until **[Insert date 30 days after date of publication in the *Federal Register*]**. If finalized, this action would incorporate the approved portions of the 2017 RACT SIP into the SIP.

¹⁶ 82 FR 9158.

¹⁷ Our February 7, 2017 finding of failure to submit also triggered offset sanctions and highway funding sanctions. These sanctions clocks were extinguished by the YSAQMD's submittal of its 2017 RACT SIP and our April 11, 2018 and August 23, 2018 letters determining that the District's RACT SIP submittal was complete.

Table 2 – List of RACT elements – 2008 ozone NAAQS

CTG Document Number	RACT Element	District Rule Implementing RACT	Negative Declaration Submitted	EPA Proposed Action
EPA-450/R-75-102	Design Criteria for Stage I Vapor Control – Gasoline Service Stations	2.22 (Gasoline Dispensing Facilities)		Approval
EPA-450/2-77-008	Surface Coating of Cans		Yes	None ^a
EPA-450/2-77-008	Surface Coating of Coils		Yes	None ^a
EPA-450/2-77-008	Surface Coating of Paper		Yes	None ^a
EPA-450/2-77-008	Surface Coating of Fabric		Yes	None ^a
EPA-450/2-77-008	Surface Coating of Automobiles and Light-Duty Trucks		Yes	None ^a
EPA-450/2-77-022	Solvent Metal Cleaning	2.31 (Solvent Cleaning and Degreasing)		Approval
EPA-450/2-77-025	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds		Yes	None ^a
EPA-450/2-77-026	Tank Truck Gasoline Loading Terminals	2.21 (Organic Liquid Storage and Transfer)		Approval
EPA-450/2-77-032	Surface Coating of Metal Furniture		Yes	None ^a
EPA-450/2-77-033	Surface Coating of Insulation of Magnet Wire		Yes	None ^a
EPA-450/2-77-034	Surface Coating of Large Appliances		Yes	None ^a
EPA-450/2-77-035	Bulk Gasoline Plants	2.21 (Organic Liquid Storage and Transfer)		Approval
EPA-450/2-77-036	Storage of Petroleum Liquids in Fixed-Roof Tanks		Yes	None ^a
EPA-450/2-77-037	Cutback Asphalt	2.28 (Cutback and Emulsified Asphalts)		Approval
EPA-450/2-78-015	Surface Coating of Miscellaneous Metal Parts and Products	2.25 (Metal Parts and Products Coating Operations)		Approval
EPA-450/2-78-029	Manufacture of Synthesized Pharmaceutical Products		Yes	None ^a
EPA-450/2-78-030	Manufacture of Pneumatic Rubber Tires		Yes	None ^a
EPA-450/2-78-032	Factory Surface Coating of Flat Wood Paneling		Yes	None ^a
EPA-450/2-78-033	Graphic Arts-Rotogravure and Flexography		Yes	None ^a
EPA-450/2-78-036	Leaks from Petroleum Refinery Equipment		Yes	None ^a
EPA-450/2-78-047	Petroleum Liquid Storage in External Floating Roof Tanks	2.21 (Organic Liquid Storage and Transfer)		Approval
EPA-450/2-78-051	Leaks from Gasoline Tank Trucks and Vapor Collection Systems	2.21 (Organic Liquid Storage and Transfer)		Approval
EPA-450/3-82-009	Large Petroleum Dry Cleaners		Yes	None ^a

CTG Document Number	RACT Element	District Rule Implementing RACT	Negative Declaration Submitted	EPA Proposed Action
EPA-450/3-83-006	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment		Yes	None ^a
EPA-450/3-83-007	Leaks from Natural Gas/Gasoline Processing Plants		Yes	None ^a
EPA-450/3-83-008	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins		Yes	None ^a
EPA-450/3-84-015	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry		Yes	None ^a
EPA-450/4-91-031	Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry		Yes	None ^a
EPA-453/R-96-007	Wood Furniture Manufacturing Operations		Yes	None ^a
EPA-453/R-94-032 61 FR 44050; 8/27/96	ACT Surface Coating at Shipbuilding and Ship Repair Facilities Shipbuilding and Ship Repair Operations (Surface Coating)		Yes	None ^a
EPA-453/R-97-004 59 FR 29216; 6/06/94	Aerospace MACT and Aerospace (CTG & MACT)		Yes	None ^a
EPA-453/R-06-001	Industrial Cleaning Solvents	2.31 (Solvent Cleaning and Degreasing)		Approval
EPA-453/R-06-002	Offset Lithographic Printing and Letterpress Printing	2.29 (Graphic Arts Printing Operations)		Approval
EPA-453/R-06-003	Flexible Package Printing		Yes	None ^a
EPA-453/R-06-004	Flat Wood Paneling Coatings		Yes	None ^a
EPA 453/R-07-003	Paper, Film, and Foil Coatings		Yes	None ^a
EPA 453/R-07-004	Large Appliance Coatings		Yes	None ^a
EPA 453/R-07-005	Metal Furniture Coatings		Yes	None ^a
EPA 453/R-08-003	Miscellaneous Metal Parts Coatings, Table 2 – Metal Parts and Products	2.25 (Metal Parts and Products Coating Operations)		Approval
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 3 – Plastic Parts and Products		Yes	None ^a
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 4 – Automotive/Transportation and Business Machine Plastic Parts		Yes	None ^a
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 5 – Pleasure Craft Surface Coating		Yes	None ^a
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 6 – Motor Vehicle Materials		Yes	None ^a

CTG Document Number	RACT Element	District Rule Implementing RACT	Negative Declaration Submitted	EPA Proposed Action
EPA 453/R-08-004	Fiberglass Boat Manufacturing Materials	2.30 (Polyester Resin Operations)		Approval
EPA 453/R-08-005	Miscellaneous Industrial Adhesives	2.33 (Adhesive Operations)		Approval
EPA 453/R-08-006	Automobile and Light-Duty Truck Assembly Coatings		Yes	None ^a
--	Non-CTG Major Sources of NO _x	2.27 (Large Boilers) 2.32 (Stationary Internal Combustion Engines) 2.43 (Biomass Boilers)		Disapproval ^b
--	Non-CTG Major Sources of VOC	2.38 (Standards for Municipal Solid Waste Landfills) 2.41 (Expandable Polystyrene Manufacturing Operations)		Disapproval ^c

^a Previously approved on April 5, 2018 (83 FR 14754).

^b As described in greater detail in the TSD, the proposed disapproval for the non-CTG major sources of NO_x element is based in the deficiencies noted in Rule 2.43 (Biomass Boilers).

^c As described in greater detail in our the TSD, the proposed disapproval for the non-CTG major sources of NO_x element is based on the deficiencies noted in Rule 2.38 (Standards for Municipal Solid Waste Landfills).

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at

<https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563:

Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provision of the Act and applicable federal regulations. 42 U.S.C. 740(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to review state choices, and approve those choices if they meet the minimum criteria of the Act. Accordingly, this proposed action partially approves and partially disapproves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law.

The District did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action.

Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goals of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: **April 5, 2023.**

Kerry Drake,
Acting Regional Administrator,
Region IX.

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